

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

LAS UVAS VALLEY DAIRIES,  
a New Mexico General Partnership

Debtor.

Case No. 17-12356-t11

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ROBERT MARCUS, NOT INDIVIDUALLY,  
BUT SOLELY AS SUCCESSOR TRUSTEE  
OF THE LAS UVAS DAIRIES  
LIQUIDATING TRUST,

Appellant,

USDC No. 1:24-cv-00001-JB-KRS

v.

DOÑA ANA COUNTY TREASURER,

Appellee.

**ORDER GRANTING PRESERVATION OF APPELLANT'S RIGHT TO APPEAL THE  
DISTRICT COURT'S 2021 ORDER AND JUDGMENT, WITHDRAWAL OF ISSUES I–  
II OF APPELLANT'S OPENING BRIEF, AND WITHDRAWAL OF APPELLEE'S  
MOTION TO STRIKE**

THIS MATTER having come before the Court upon Joint Motion to Preserve Appellant's Right to Appeal Court's 2021 Order and Judgment, Withdraw Issues I–II of Appellant's Opening Brief Herein, and Withdraw Appellee's Motion to Strike ("Motion"), (Doc. 26), filed jointly by Appellant, Robert Marcus, not individually, but solely in his capacity as Successor Trustee of the Las Uvas Dairies Liquidating Trust (the "Trustee") and Appellee Doña Ana County Treasurer ("DACT"), on March 17, 2025. Having considered the agreement of the parties, procedural history of the case, docket for Case No. 20-cv-01014-JB-KK ("District Ct. 1"), the parties having stipulated to the entry of this Order, and the Court being sufficiently advised in the premises, the Court GRANTS the Motion.


IT IS HEREBY ORDERED as follows:

1. The Trustee's Issues No. I–II (collectively, the “Due Process Issues”) set forth in his opening brief (Docket No. 15, at p. vi) (the “Opening Brief”) arising from the District Court's 2021 Memorandum Opinion and Order Adopting Magistrate Judge's Proposed Findings and Recommended Disposition [District Ct. 1, Doc. 23] and the Bankruptcy Court's Opinion [BK. Case No. 17-12356, Doc. 719] are retained and preserved for appeal pending the Court's determination of the Doctrine of Laches Issues (as defined in the Opening Brief).

2. The Due Process Issues are withdrawn from consideration in the Opening Brief and retained and preserved in their entirety for purposes of appeal to the Tenth Circuit Court of Appeals.

3. DACT's Motion to Strike Portions of Appellant's Brief and/or to Dismiss this Appeal as to all Issues Not Related to Holdings of the Bankruptcy Court on Remand, (Doc. 16), filed June 13, 2024, is hereby withdrawn, without prejudice.

4. This Order shall not prejudice DACT's right to appeal any issues in the District Court's Appeal Opinion or Final Judgment [District Ct. 1, Docs. 23, 24], except for those relating to the prepetition claim or “excusable neglect” under FED. R. BANKR. P. 9006.



KEVIN R. SWEAZE

UNITED STATES MAGISTRATE JUDGE